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EG&G ROCKY FLATS

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EG&G ROCKY FLATS, INC.

ROCKY FLATS PLANT, P.O. BOX 464, GOLDEN, COLORADO 80402-0464 • (303) 966-7000

February 13, 1991

91-RF-0795

Robert M. Nelson, Jr. Manager

DOE, RFO

EXPIRATION OF THE LDR FEDERAL FACILITY COMPLIANCE AGREEMENT (JOZ-077-91)

The Federal Facility Compliance Agreement (FFCA) which, among other things, allows for the continuing generation and storage of certain land disposal restricted wastes (LDR) at the Rocky Flats Plant will expire on February 15, 1991 unless extended by the Environmental Protection Agency (EPA) and the Colorado Department of Health (CDH).

EG&G certainly appreciates that DOE is actively pursuing another extension of the FFCA to provide time to conclude negotiations on a new agreement. However, there is no current agreement that EPA and CDH will extend the FFCA, and there remains significant differences of opinions on several significant issues including stipulated penalties and enforceable milestones. Therefore, EG&G is gravely concerned about the consequences of operating the Rocky Flats Plant without either an extension of the FFCA or a new agreement.

The EG&G prime contract provides that EG&G "shall not be required to take any action or refrain from taking any action which would result in a violation by Contractor, its parent or affiliates, of any statute, as determined by the contracting officer. . . " Clause 2(d). In the present case, generation of LDR wastes which cannot be treated, stored or disposed of within the requirements of the Hazardous and Solid Waste Amendments of 1984 to the Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act (together "RCRA") may be statutory violations which could expose EG&G Rocky Flats, Inc., and its employees to civil and criminal sanctions.

In view of the remoteness of successful resolution of this issue, EG&G will initiate immediate actions to shut down those operations that generate LDR waste forms. It must be recognized that these actions will effectively eliminate non-plutonium functions and terminate plans to complete resumption of operations by specified schedules. A plan for shutdown status is currently being prepared which will define the actions to be taken, projected completion dates, cost impacts, and consequences to DOE mission objectives. Even with taking these actions, it may not be possible for EG&G to stop the generation of LDR wastes and/or bring the facility into full compliance in a stand down condition.

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IN REPLY TO LTR NO.

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R. M. Nelson, Jr. February 13, 1991 91-RF-0795 Page 2

Therefore, EG&G requests Contracting Officer written representations that:

- a) DOE representatives have discussed this matter with relevant senior enforcement officials (to be named in the transmittal) at both EPA and the Department of Justice and have received verbal assurances that no criminal enforcement action will be taken against EG&G or any of its employees if EG&G continues to operate the Rocky Flats Plants without the protections of a FFCA covering the continued generation and storage of LDR wastes, and
- all fines, penalties, settlements and costs, including litigation costs and attorney fees arising out of or in connection with any administrative proceeding or civil action to enforce compliance with RCRA LDR requirements will be allowable and reimbursable costs under EG&G's prime contract.

Attention to this matter at your earliest convenience is urgently requested.

J. O. Zane

/Acting General Manager

RG:vp

Orig. and 1 cc: - R. M. Nelson, Jr.

 ∞ :

G. H. Fess

- DOE, RFO

D. P. Simonson

- DOE, RFO